

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

RUSSELL R. WASENDORF, SR.)
Plaintiff,)
v.)
DBH BROKERHAUS AG,)
RALF A. MAC GRANAKY-QUAYE,)
DANIEL J. GUMPEL,)
JURGEN BECKER,)
Defendants.)

MOSES W. CHEN,
CLERK, U.S. DISTRICT COURT

RECEIVED

AUG 12 2004

Case No. 04 C 1904

JUDGE HARRY LEINENWEBER
MAGISTRATE JUDGE NAN NOLAN

NOTICE OF MOTION

To: Joel J. Bellows
Christopher L. Gallinari
Helen B. Bloch
Bellows and Bellows, P.C.
79 West Monroe Street, Suite 800
Chicago, Illinois 60603

PLEASE TAKE NOTICE that on August 10, 2004 at 9:30 a.m., or as soon thereafter as counsel may be heard, we shall appear before the Honorable Harry D. Leinenweber in Room 1941, 219 South Dearborn Street, Chicago, Illinois, and there present **DEFENDANT DANIEL J. GUMPEL'S MOTION TO DISMISS**, a copy of which is attached hereto.

Dated: July 27, 2004

Respectfully submitted,



Garrett B. Johnson
Donna M. Welch
KIRKLAND & ELLIS LLP
200 E. Randolph Drive
Chicago, Illinois 60601
312-861-2000
312-861-2200 (facsimile)

9

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

RUSSELL R. WASENDORF, SR.)
Plaintiff,)
v.) Case No. 04 C 1904
DBH BROKERHAUS AG,) JUDGE HARRY LEINENWEBER
RALF A. MAC GRANAKY-QUAYE,) MAGISTRATE JUDGE NAN NOLAN
DANIEL J. GUMPEL,)
JURGEN BECKER,)
Defendants.)

RECEIVED
AUG 12 2004

DEFENDANT DANIEL J. GUMPEL'S MOTION TO DISMISS

Defendant Daniel J. Gumpel respectfully requests that the Court dismiss Wasendorf's complaint against him for lack of personal jurisdiction. In the alternative, defendant Gumpel asks the Court to dismiss the complaint based on the doctrine of *forum non conveniens*. In support of his motion, Defendant states:

1. Plaintiff has failed to allege that Daniel Gumpel has purposely established minimum contacts with Illinois, such that Mr. Gumpel should have reasonably expected being haled into Court in Illinois. Even if Mr. Gumpel's minimal contacts with Illinois were considered purposeful, the exercise of personal jurisdiction in this case would not comport with "fair play and substantial justice."

2. Virtually all of the contacts between Plaintiff, Russell Wasendorf, and Defendant Daniel Gumpel took place in Germany, during Supervisory Board meetings and shareholder meetings of the German company DBH.

3. Mr. Gumpel's sole visit to Chicago, Illinois was a trip made at the request of Mr. Wasendorf, at Mr. Wasendorf's expense. The purpose of the trip was not connected to

9

the business of DBH -- but rather was to help Mr. Wasendorf convince some of his business colleagues to purchase some of Wasendorf's personal shares in DBH.

4. In addition, Wasendorf has not alleged that any of the alleged torts, or any harm, occurred in Illinois. To the contrary, Wasendorf, an Iowa citizen, asks this Court, sitting in Illinois, to exercise jurisdiction over an individual German defendant, and to adjudicate claims arising under German law, involving a German company.

5. The burden on Mr. Gumpel -- an individual defendant who will bear his own costs in connection with this lawsuit -- would be substantial. In contrast, Wasendorf has the ability to bring his claims in Germany, where virtually all of the witnesses and documents reside.

6. Germany's connection to and interest in this matter are far greater than that of Illinois.

7. Moreover, Germany is an adequate alternative forum, and the public and private interests weigh in favor of dismissal on the grounds of *forum non conveniens*.

WHEREFORE, for these reasons and for the reasons set forth in the accompanying Memorandum of Law In Support, Daniel J. Gumpel asks this Court to dismiss the case against him based on lack of personal jurisdiction. In the alternative, defendant Gumpel requests that the Court exercise its discretion to dismiss the complaint based on the doctrine of *forum non conveniens*.

Dated: July 27, 2004

Respectfully submitted,

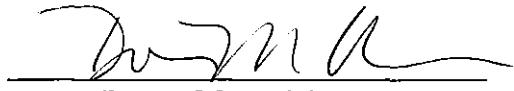


Garrett B. Johnson
Donna M. Welch
KIRKLAND & ELLIS LLP
200 E. Randolph Drive
Chicago, Illinois 60601
312-861-2000
312-861-2200 (facsimile)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Notice of Motion and Defendant Daniel J. Gumpel's Motion to Dismiss were served on the following by facsimile transmission on this the 27th of July, 2004:

Joel J. Bellows
Christopher L. Gallinari
Helen B. Bloch
Bellows and Bellows, P.C.
79 West Monroe Street
Suite 800
Chicago, Illinois 60603
Facsimile: 312-332-3340



Donna M. Welch